

NO. 24957

IN THE SUPREME COURT OF THE STATE OF HAWAII

ELBA PISTONE and SALVATORE PISTONE, Plaintiffs-Appellants

vs.

FORD MOTOR COMPANY, INTER PACIFIC MOTORS, INC.,
dba ORCHID ISLE AUTO CENTER, Defendants-Appellees

APPEAL FROM THE THIRD CIRCUIT COURT
(CIV. NO. 00-1-0187)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson, Nakayama, Ramil, and Acoba, JJ.)

Upon review of the statements supporting and contesting jurisdiction and the record, it appears that: (1) notice of appeal from the January 28, 2002 judgment must have been filed "within thirty days after entry of the judgment[;]" HRAP 4(a)(1); (2) appellants' notice of appeal was filed on February 28, 2002, thirty-one days after entry of the January 28, 2002 judgment; (3) the thirty-day period for appeal was not extended for two additional days by operation of HRCP 6(e) inasmuch as HRCP 6(e) is invoked when a prescribed time is measured from the date of service and the prescribed time under HRAP 4(a)(1) is not measured from the date of service, but is measured from the date of entry of the judgment; and thus, (4) this appeal is untimely and we lack jurisdiction; see Bacon v. Karlin, 68 Haw. 648, 650, 727 P.2d 1127, 1128 (1986) (the failure to file a timely notice of appeal in a civil case is a jurisdictional defect that can neither be waived by the parties nor disregarded by the appellate

court in the exercise of judicial discretion). Therefore,

IT IS HEREBY ORDERED that this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i,